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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,776	11/29/2001	David K. Towner	10002950-1	1690

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EXAMINER

THOMPSON, JAMES A

ART UNIT PAPER NUMBER

2625

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/995,776	Applicant(s) TOWNER ET AL.	
	Examiner James A. Thompson	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 05 January 2006.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) _____ is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-4, 6-11, 13-17, 19 and 20 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. _____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6) <input type="checkbox"/> Other: _____
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DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 05 January 2006 have been fully considered but they are not persuasive.

Applicant argues that the limitation "wherein varying at least one parameter includes varying at least one parameter chosen from a list consisting of: Nip Geometry, Auxiliary Heat, or Number of Passes", as taken from now cancelled claims 5, 12 and 18 and now recited in presently amended claims 1, 8 and 15, are not taught by Lloyd (US Patent 5,852,462) as alleged by Examiner in the previous office action, dated 24 August 2005 and mailed 08 September 2005.

Examiner replies that Examiner did not suggest in said previous office action that Lloyd taught the newly amended limitation disputed by Applicant. The entire recitation of former claim 5 has not been incorporated into newly amended claims 1, 8 and 15, but only elements of the list previously recited in now cancelled claims 5, 8 and 15 that are not taught by Lloyd. The fact that the other elements of now cancelled claims 5, 8 and 15 were taught by Lloyd was sufficient basis for a rejection under 35 USC §102(b). However, now that Applicant has amended claims 1, 8 and 15 to incorporate only the elements of the list that are not specifically taught by Lloyd, clearly a rejection under 35 USC §102(b) based on anticipation by Lloyd would be improper in light of the newly amended claims. However, the presently amended claims are rejected based on new grounds of rejection which have been necessitated by the present amendments to the claims, and which are set forth below.

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Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 8, 10-11, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (US Patent 5,852,462) in view of Mathers (US Patent 5,321,481) and Mills (US Patent 5,406,362).

Regarding claims 1, 8 and 15: Lloyd discloses an apparatus (figure 1 and column 6, lines 13-20 of Lloyd) comprising a user interface (figure 1(31) of Lloyd) facilitating user-adjustable variation of hard copy output gloss (column 6, lines 55-57 of Lloyd); a control mechanism (figure 2(12) and column 6, lines 50-55 of Lloyd) configured to vary at least one processing parameter (column 6, lines 52-55 of Lloyd) in producing the hard copy output in response to user adjustment of the user-adjustable control (column 6, lines 50-52 of Lloyd) to provide a first user-selected gloss level over a first portion of a page of hard copy output (column 7, lines 2-5 of Lloyd).

Lloyd does not disclose expressly that varying at least one processing parameter includes varying at least one parameter chosen from a list consisting of: Nip Geometry, Auxiliary Heat, or Number of Passes.

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Mathers discloses varying at least one parameter chosen from Auxiliary Heat (column 7, table 1 and lines 21-33 of Mathers) or Number of Passes (column 5, lines 27-32 of Mathers).

Lloyd and Mathers are combinable because they are from the same field of endeavor, namely the control of printer fusers to control hard copy output gloss. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the varying of the level of heat, particularly auxiliary heat, in the list of parameters that can be varied. The motivation for doing so would have been that different job performance levels require different levels of fuser heat (column 7, lines 55-57 of Mathers). Further, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the number of passes in the list of parameters that can be varied. The motivation for doing so would have been to allow for additional primary ink colors, such as black, to be printed and allow for double-sided prints (column 5, lines 27-32 of Mathers), both of which are generally desirable capabilities in the printing arts. Therefore, it would have been obvious to combine Mathers with Lloyd.

Lloyd in view of Mathers does not disclose expressly that said list also includes Nip Geometry, thus making the list of parameters consist of Nip Geometry, Auxiliary Heat, and the Number of Passes.

Mills discloses varying the Nip Geometry of a fuser (column 3, lines 2-14 of Mills).

Lloyd in view of Mathers is combinable with Mills because they are from the same field of endeavor, namely the control of printer fusers to control hard copy output gloss. At the time of the invention, it would have been obvious to a person of

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ordinary skill in the art to allow a user to vary the geometry of the nip. Thus, the list of parameters consists of Nip Geometry, Auxiliary Heat, and the Number of Passes. The motivation for doing so would have been to improve the wrinkle control of the fuser (column 1, lines 40-42 of Mills). Since a wrinkled hardcopy output is clearly an undesirable result, one of ordinary skill in the art at the time of the invention would clearly be motivated to combine the teachings of Mills with Lloyd in view of Mathers so that the level of wrinkle can be controlled. Therefore, it would have been obvious to combine Mills with Lloyd in view of Mathers to obtain the invention as specified in claims 1, 8 and 15.

Further regarding claim 1: The apparatus of claim 8 performs the method of claim 1.

Further regarding claim 15: The apparatus of claim 8 is embodied on a personal computer (column 6, lines 38-45 of Lloyd) and is thus the computer implemented control system of claim 15.

Regarding claims 3 and 10: Lloyd discloses that varying gloss in hard copy output includes varying gloss in a hard copy output engine (column 6, lines 50-55 of Lloyd) that employs dry powder material as for pigmentation of the hard copy medium (column 6, lines 24-28 of Lloyd).

Regarding claims 4, 11 and 17: Lloyd discloses that the control mechanism configured to vary includes a control mechanism configured to supply a gloss modification agent to the hard copy medium during generation of the hard copy output (column 7, lines 30-36 of Lloyd).

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4. Claims 2, 9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (US Patent 5,852,462) in view of Mathers (US Patent 5,321,481), Mills (US Patent 5,406,362), and Gwaltney (US Patent 5,751,432).

Regarding claims 2, 9 and 16: Lloyd discloses a sensor (figure 2(26) of Lloyd) for sensing gloss levels in hard copy media that is to be output from the hard copy output engine (column 6, lines 61-65 of Lloyd); and wherein the control mechanism configure to vary includes a control mechanism configured to vary at least one processing parameter in producing the hard copy output (column 7, lines 5-14 of Lloyd) in response to both the sensed achieved gloss level (column 6, line 66 to column 7, line 2 of Lloyd) and the user adjustment of the user-adjustable control (column 6, lines 55-57 of Lloyd).

Lloyd in view of Mathers and Mills does not disclose expressly that said sensor senses achieved gloss levels in a hard copy output from the hard copy output engine.

Gwaltney discloses a sensor (figure 1(18) of Gwaltney) which senses achieved gloss levels in a hard copy output from the hard copy output engine (column 4, lines 11-17 of Gwaltney).

Lloyd in view of Mathers and Mills is combinable with Gwaltney because they are from the same field of endeavor, namely the control and printing of hard copy images with various adjustable gloss levels, said images taken from digital image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to use a sensor to help control the achieved gloss levels in the hard copy output, as taught by Gwaltney. The motivation for doing so would have been to allow for better control of output gloss levels in the resultant hard copy (column 4, lines 20-23 of Gwaltney).

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Therefore, it would have been obvious to combine Gwaltney with Lloyd in view of Mathers and Mills to obtain the invention as specified in claims 2, 9 and 16.

5. Claims 6-7, 13-14 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (US Patent 5,852,462) in view of Mathers (US Patent 5,321,481), Mills (US Patent 5,406,362), and Ng (US Patent 5,234,783).

Regarding claims 6, 13 and 19: Lloyd discloses that the user interface includes a user interface configured to provide a user with a user-adjustable control allowing adjustment of achieved gloss levels (column 6, lines 52-55 of Lloyd).

Lloyd in view of Mathers and Mills does not disclose expressly that said adjustment is *page-to-page* adjustment.

Ng discloses page-to-page adjustment (figure 1 and column 5, lines 48-54 of Ng) of achieved gloss levels (column 5, lines 43-47 of Ng).

Lloyd in view of Mathers and Mills is combinable with Ng because they are from the same field of endeavor, namely the control and printing of hard copy images with various adjustable gloss levels, said images taken from digital image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to adjust the achieved gloss levels on a page-to-page basis, as taught by Ng. The motivation for doing so would have been to provide the ability for a user to give special treatment to certain images or parts of images (column 5, lines 48-54 of Ng). Therefore, it would have been obvious to combine Ng with Lloyd in view of Mathers and Mills to obtain the invention as specified in claims 6, 13 and 19.

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Regarding claims 7, 14 and 20: Lloyd discloses a user-selectable gloss level for a page (column 6, lines 50-55 of Lloyd).

Lloyd in view of Mathers and Mills does not disclose expressly that varying at least one parameter includes varying at least one parameter to provide the first user-selected gloss level over the first portion of the page of hard copy output and to provide a second user-selectable gloss level over a second portion of the page.

Ng discloses varying at least one parameter to provide the first gloss level over the first portion of the page of hard copy output and to provide a second gloss level over a second portion of the page (figure 1 and column 2, lines 63-67 of Ng).

Lloyd in view of Mathers and Mills is combinable with Ng because they are from the same field of endeavor, namely the control and printing of hard copy images with various adjustable gloss levels, said images taken from digital image data. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to vary a parameter to provide a first gloss level over a first portion of a hard copy output and to provide a second gloss level over a second portion of the page, as taught by Ng, wherein the first gloss level and the second gloss level are each user-selectable, as taught by Lloyd. The motivation for doing so would have been to provide the ability for a user to give special treatment to certain parts of images (column 5, lines 48-54 of Ng). Therefore, it would have been obvious to combine Ng with Lloyd in view of Mathers and Mills to obtain the invention as specified in claims 7, 14 and 20.

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Conclusion

6. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

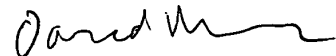
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



30 March 2006

James A. Thompson
Examiner
Technology Division 2625



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